

## **Summary of Selected Victims' Rights Related Legislation Passed During the 2002 Session of the Virginia General Assembly**

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## **HB 369 Obstructing justice by giving a false statement.**

*Summary:*

**Obstructing justice by giving a false statement to a law-enforcement officer.** Provides that any person who knowingly and willfully *makes any materially false statement or representation to a law-enforcement officer who is in the course of conducting an investigation of a crime by another is guilty of a Class 2 misdemeanor.*

*An Act to amend and reenact § 18.2-460*

*Patron:* Cosgrove

## **HB 420 Emergency protective orders.**

*Summary:*

**Emergency protective orders.** Requires the judge or magistrate who receives an electronic request and issues an oral order to verify the order when reduced to writing, and removes the requirement that the original copy of the order filed with the clerk be verified by the judge or magistrate who entered the order. This bill is a recommendation of the Committee on District Courts.

*An Act to amend and reenact §§ 16.1-253.4 and 19.2-152.8*

*Patrons:* Johnson and Almand

## **HB 432 Carrying firearms during period of protective order.**

*Summary:*

**Carrying firearms during period of protective order.** Clarifies that any person with a concealed handgun permit is prohibited from carrying any concealed firearm, for the duration of any protective order, and requires surrender of his permit to the court entering the order. (See also SB46; Reynolds).

*An Act to amend and reenact § 18.2-308.1:4*

*Patrons:* Hurt, Armstrong and Marshall, D.W.; Senator: Reynolds

## **HB 456 Crimes; stalking.**

*Summary:*

**Crimes; stalking.** Exempts law-enforcement officers and regulated private investigators, acting in the course of their business, from the provisions of the stalking statute.

*An Act to amend and reenact § 18.2-60.3*

*Patron:* Griffith

## **HB 488 Domestic violence; penalty.**

*Summary:*

**Domestic violence; penalty.** Creates a statewide facilitator for victims of domestic violence within the Office of the Attorney General. The bill redefines family abuse to include reasonable apprehension of any bodily injury rather than serious bodily injury as under current law. The bill also requires that law-enforcement agencies enter information on protective orders into the VCIN immediately upon receipt. The bill removes the provision that marital rape cannot occur unless the spouses were living apart or there was bodily injury caused by force or violence. The bill also creates a protective order registry within the State Police to be made available to all criminal justice agencies in the Commonwealth. (See also SB290; Norment)

*An Act to amend and reenact §§ 9.1-102, 16.1-228, 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-279.1, 18.2-61, 18.2-164, 18.2-460, 19.2-11.01, 19.2-11.2, 19.2-81.3, 19.2-152.8, 19.2-152.9, 19.2-152.10, 19.2-305.1, and 52-35 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 2.2-515.1 and 19.2-387.1 and 52-45.*

*Patrons:* Suit, Albo, Armstrong, Baskerville, Bell, Byron, Carrico, Cosgrove, Councill, Cox, Devolites, Drake, Hargrove, Howell, Janis, Johnson, Keister, Kilgore, Landes, Lingamfelter, Louderback, Marrs, McQuigg, Nixon, O'Bannon, Parrish, Phillips, Rapp, Reese, Rollison, Saxman, Sears, Stump, Weatherholtz and Welch

## **HB 729 Freedom of Information Act; definition of "public body", etc.**

*Summary:*

**Freedom of Information Act; definition of "public body"; application to constitutional officers.** Provides that for the purposes of those provisions of FOIA applicable to access to public records, constitutional officers shall be considered public bodies and, except as otherwise expressly provided by law, shall have the same obligations to disclose public records as other custodians of public records. The bill also eliminates the term "public official" from FOIA. The bill also expands a current record exemption for criminal records to include case files or reports and witness statements. The bill contains technical amendments.

*An Act to amend and reenact §§ 2.2-3700, 2.2-3701, 2.2-3702, 2.2-3705, 2.2-3706, and 2.2-3711*

*Patron:* Woodrum

## **HB 816 Employee court appearances.**

*Summary:*

**Employee court appearances.** Expands the statutory protections currently available to employees who are summoned or subpoenaed to court to include persons "who, having appeared, are required in writing by the court to appear at any future hearing." People in this category would then have the protections of the current statute, which provides that an employer who discharges, takes adverse personnel action, or requires the use of sick leave or vacation time regarding an employee who has given the employer notice of the court appearance is guilty of a Class 3 misdemeanor. This bill is a recommendation of the Committee on District Courts.

*An Act to amend and reenact § 18.2-465.1*

*Patron:* Almand

## **HB 1060 Suspension of operator's license & tags for failure satisfy judgment.**

*Summary:*

**Suspension of operator's license and tags for failure to satisfy judgment.** Expands the definition of judgment to include a civil action filed pursuant to § 15.2-1716 (reimbursement of expenses incurred in responding to DUI incident). This expansion allows the Commissioner, pursuant to § 46.2-417, to suspend the driver's license and all of the registration certificates and license plates for any person who has failed to satisfy the judgment resulting from emergency response expenses incurred on his behalf in response to his DUI.

*An Act to amend and reenact § 46.2-364*

*Patron:* Moran

## **HB 1061 Termination of parental rights.**

*Summary:*

**Termination of parental rights.** Provides the following additional circumstance in which the local board or other child welfare agency having custody of the child shall not be required to make reasonable efforts to reunite the child with a parent: if the court finds that, based on clear and convincing evidence, the parent has subjected any child to aggravated circumstances, or abandoned a child under circumstances which would justify the termination of residual parental rights. "Aggravated circumstances" includes torture, chronic or severe abuse, or chronic or severe sexual abuse. (See also SB130; Ticer).

*An Act to amend and reenact §§ 16.1-281 and 16.1-283*

*Patrons:* Moran and Van Landingham

## HB 1120 Terrorism.

*Summary:*

**Terrorism.** Broadens Virginia's capabilities to respond to terrorism. The bill allows the Attorney General to prosecute terrorist activities, a redefined term. The bill makes murder in the furtherance of terrorism a capital crime. The bill punishes aiding and abetting terrorism, manufacture and possession of terrorist devices and hoax devices and making terrorist threats. The bill expands wiretap capabilities in response to terrorist activity and restricts admission to bail of a person charged with a terroristic crime. The bill also expands seizure and forfeiture law to include property associated with terrorism. (See also SB514; Stolle)

*An Act to amend and reenact §§ 2.2-511, 18.2-18, 18.2-31, 18.2-51.1, 18.2-52.1, 18.2-60, 18.2-85, 19.2-61, 19.2-66, 19.2-70.2, 19.2-120, 19.2-215.1, 19.2-294, 19.2-386.1 through 19.2-386.5, 24.2-233, and 52-8.5 of the Code of Virginia, and to amend the Code of Virginia by adding sections numbered 15.2-1716.1, and 18.2-46.4 through 18.2-46.10.*

*Patrons:* Albo, Griffith, Abbitt, Armstrong, Athey, Bolvin, Byron, Carrico, Cosgrove, Council, Cox, Drake, Howell, Hurt, Janis, Johnson, Keister, Kilgore, Landes, Lingamfelter, Louderback, McDonnell, McDougle, Nixon, O'Bannon, Parrish, Phillips, Reese, Rollison, Sears, Stump, Suit, Weatherholtz and Welch

## HB 1173 Burning object on property of another with intent to intimidate.

*Summary:*

**Burning object on property of another or public place with intent to intimidate; penalty** Provides that any person, with the intent of intimidating another, who burns an object on the property of another, on a highway or other public place is guilty of a Class 6 felony. This is in response to the decision of the Virginia Supreme Court in Black v. Commonwealth, 2001 Va. Lexis 139 (2001), that found Virginia's cross-burning statute unconstitutional under the First Amendment.

*An Act to amend the Code of Virginia by adding a section numbered 18.2-423.01*

*Patron:* Sears

## SB 137 Criminal Injuries Compensation Fund.

*Summary:*

**Criminal Injuries Compensation Fund.** Allows Virginia residents to access the Fund if victimized while traveling in another country or in a territory. The bill provides that the parent of a child victim may apply for compensation on behalf of the child, so the parent can get lost wages for medical and legal appointments, etc. The bill also allows the person who paid for the victim's funeral to be reimbursed rather than limiting funeral reimbursement to certain relatives. The top limit award for weekly wages is increased from \$200 to \$600 and for moving expenses is increased from \$500 to \$1,000. The Commonwealth is directed to vigorously pursue the subrogation rights that accrue to it on behalf of victims and claimants. Attorneys for the Commonwealth are directed to request restitution when an award has been made from the Fund, so that the Fund can be reimbursed.

*An Act to amend and reenact §§ 19.2-368.4, 19.2-368.5, 19.2-368.8 and 19.2-368.11:1*

*Patron:* Stolle

## SB 150 Court fees.

*Summary:*

**Court fees.** Establishes fixed fees for proceedings for misdemeanors, traffic infractions and other violations in district and circuit court. The fixed fees aggregate the most common costs to be collected by clerks of court, many of which are earmarked for distribution to specific funds. The fees are collected in the case of a conviction, certain deferred dispositions without a finding of guilt, or revocation of probation or a suspended sentence. The bill was recommended by the Committee on District Courts in order to more efficiently process cases, utilize automation and minimize inconvenience to the public.

*An Act to amend and reenact §§ 16.1-69.48:1, 16.1-69.48:3, 17.1-275, 17.1-275.2, 17.1-275.4, 17.1-275.5, 17.1-275.6, 17.1-281, 19.2-11.3, 19.2-303.4, 19.2-354, 19.2-368.18, 53.1-131.1, and 53.1-150 of the Code of Virginia, to amend the Code of Virginia by adding sections numbered 17.1-275.7, 17.1-275.8, and 17.1-275.9, and to repeal §§ 17.1-277 and 18.2-264.01 of the Code of Virginia*

*Patron:* Norment

## **SB 291 Commonwealth's right to appeal in felony actions.**

*Summary:*

**Commonwealth's right to appeal in felony actions.** Expands the Commonwealth's right to appeal by providing that an appeal may be sought *where the sentence imposed by the circuit court is contrary to mandatory sentencing or restitution terms required by statute.*

*An Act to amend and reenact § 19.2-398*

*Patron:* Norment

## **SB 353 DUI; blood alcohol test.**

*Summary:*

**DUI; blood alcohol test.** Increases the time limit for implied consent in post-arrest chemical tests. Under current law a person arrested is deemed to have consented to breath and blood tests if the person is arrested within two hours of the alleged offense. This bill increases that time to three hours.

*An Act to amend and reenact § 18.2-268.2*

*Patrons:* Reynolds; *Delegate:* Armstrong

## **SB 355 Blood alcohol test admissibility.**

*Summary:*

**Blood alcohol test admissibility.** Provides that a blood alcohol test is admissible as a hospital business record in a prosecution for driving under the influence if the test was taken in an emergency room.

*An Act to amend the Code of Virginia by adding a section numbered 19.2-187.02*

*Patrons:* Reynolds; *Delegate:* Armstrong

## **SB 485 Issuance and violation of stalking protective orders.**

*Summary:*

**Issuance and violation of stalking protective orders; penalty.** The bill provides that, except when necessary for conduct of the criminal proceeding, the address and telephone number of an allegedly stalked person may not be disclosed. The bill also requires that protective order information be entered into the Virginia Criminal Information Network (VCIN) upon receipt.

*An Act to amend and reenact §§ 19.2-152.8, 19.2-152.9 and 19.2-152.10*

*Patron:* Howell

## **SB 518 Protective orders; penalty.**

*Summary:*

**Family abuse protective orders; penalty.** Provides that the name of a person protected by a protective order shall not be disclosed, unless required by law or necessary for law-enforcement purposes and that no fee shall be charged for filing or serving a protective order. Additionally, the bill requires law-enforcement agencies to enter certain information regarding the protective order, upon receipt, into the Virginia Criminal Information Network System (VCIN).

*An Act to amend and reenact §§ 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-279.1 and 17.1-272*

*Patron:* Howell

## **SB 521 Ignition interlock and review of DMV order for manifest injustice.**

*Summary:*

**Ignition interlock and review of DMV order for manifest injustice; commercial driver's license.** Removes judicial discretion to allow a DUI second offender to drive his vehicle without an ignition interlock. Currently, the court may allow such person to drive without the interlock if the court states in its order why the interlock is not required.

*An Act to amend and reenact §§ 46.2-391.01 and 46.2-410.1*

*Patrons:* Mims, Howell, Norment, Puckett, Reynolds, Whipple and Williams

## **SB 647 Parole Board.**

*Summary:*

**Parole Board.** Allows the Parole Board to be composed of up to five members (currently, it is five members), requires that the Chairman be a full-time state employee, and allows the Governor to designate no more than two other members as full-time state employees. The other members, if any, are part-time state employees. The bill also requires the Board to notify the Commonwealth's attorney of the sentencing jurisdiction by certified mail at least 21 business days prior to release on parole of any inmate convicted of a felony and sentenced to a term of 10 or more years, and to endeavor diligently to contact the victim prior to making any decision to release any inmate on discretionary parole. However, in the case of parole granted for medical reasons, where death is imminent, the Commonwealth's Attorney may be notified by telephone or other electronic means prior to release.

*An Act to amend and reenact §§ 53.1-134, 53.1-135, 53.1-136, and 53.1-155*

*Patrons:* Miller, Y.B., Byrne, Lucas, Marsh, Maxwell, Puller, Ticer and Whipple